

AMERICAN CIVIL LIBERTIES UNION OF
MASSACHUSETTS and LAWYERS FOR
CIVIL RIGHTS,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, IMMIGRATION
AND CUSTOMS ENFORCEMENT,

Defendants.

Since the last status conference, ICE has made two productions to Plaintiffs. For the first production, dated February 26, 2021, ICE reviewed 759 pages of records and deemed 732 pages to be responsive. ICE released one page in full, withheld 31 pages in full, and withheld in part 700 pages pursuant to FOIA Exemptions 5, 6, 7(A), 7(C), 7(E) and 7(F). For the second production, dated March 31, 2021, ICE reviewed 750 pages of records and deemed 745 pages to be responsive. ICE released two pages in full, withheld nine pages in full, and withheld in part 734 pages pursuant to FOIA Exemptions 5, 6, 7(A), 7(C), 7(E) and 7(F). ICE is not yet certain how many pages remain to be reviewed but intends to continue reviewing 750 pages per month and making rolling productions to Plaintiffs. The parties are continuing to meet and confer in good faith about the most efficient way forward for the remainder of the production.

Plaintiffs' Position

This case has been pending since December 2019. In December 2020, Defendants estimated that it would take more than 17 additional months to complete the production at their current pace of review (750 pages per month). To speed up the process, Plaintiffs proposed that Defendants review 750 *documents* per month or commit to a date certain for completion. At the last status conference, the Court ordered Defendants to re-start monthly, rolling productions, beginning in February, and set a further status conference for April 5, so that the parties could report to the Court with the benefit of having seen two productions responsive to the Gang Profiling Request.

Having reviewed the productions, Plaintiffs would like to raise the following concerns for discussion at the status conference:

- 1) The pages in the productions are approximately 90-95% redacted, such that the documents are nearly unreadable. Plaintiffs anticipate litigation over the scope of the redactions, such that it may not be efficient for ICE to continue reviewing and producing hundreds of completely or almost-completely-redacted pages to Plaintiffs each month.
- 2) Plaintiffs are open to and envision several potential solutions, including a) briefing partial summary judgment on one or more parts of the Gang Profiling Request to establish the parameters of what may be redacted under FOIA, or b) setting a deadline to complete the production by the end of August 2021 and scheduling summary judgment briefing for shortly thereafter.

Date: April 2, 2021

Respectfully Submitted,

/s/ Lauren Godles Milgroom

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing will be filed through the electronic filing system of the Court, which system will serve counsel of record, on April 2, 2021.

/s/ Lauren Godles Milgroom
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